

CENTER FOR DISABILITY ACCESS
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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

Samuel Love,

Plaintiff,

v.

**International Hotel Associates
No. 2 LLC**, a California Limited
Liability Company;

Defendants,

Case No.

**Complaint For Damages And
Injunctive Relief For
Violations Of:** Americans With
Disabilities Act; Unruh Civil
Rights Act

Plaintiff Samuel Love complains of International Hotel Associates No. 2 LLC, a California Limited Liability Company ("Defendants"), and alleges as follows:

PARTIES:

1. Plaintiff is a California resident with physical disabilities. He is substantially limited in his ability to walk. He is a paraplegic. He uses a wheelchair for mobility.

2. Defendant International Hotel Associates No. 2 LLC, a California

1 Limited Liability Company owns and operates the King George Hotel located
2 at 334 Mason Street, San Francisco, California, currently and at all times
3 relevant to this complaint.

4 3. Plaintiff does not know the true names of Defendants, their business
5 capacities, their ownership connection to the property and business, or their
6 relative responsibilities in causing the access violations herein complained of,
7 and alleges a joint venture and common enterprise by all such Defendants.
8 Plaintiff is informed and believes that each of the Defendants herein, is
9 responsible in some capacity for the events herein alleged, or is a necessary
10 party for obtaining appropriate relief. Plaintiff will seek leave to amend when
11 the true names, capacities, connections, and responsibilities of other
12 Defendants are ascertained.

13 14 **JURISDICTION:**

15 4. The Court has subject matter jurisdiction over the action pursuant to 28
16 U.S.C. § 1331 and § 1343(a)(3) & (a)(4) for violations of the Americans with
17 Disabilities Act of 1990, 42 U.S.C. § 12101, et seq.

18 5. Pursuant to supplemental jurisdiction, an attendant and related cause
19 of action, arising from the same nucleus of operative facts and arising out of
20 the same transactions, is also brought under California's Unruh Civil Rights
21 Act, which act expressly incorporates the Americans with Disabilities Act.

22 6. Venue is proper in this court pursuant to 28 U.S.C. § 1391(b) and is
23 founded on the fact that the real property which is the subject of this action is
24 located in this district and that Plaintiff's cause of action arose in this district.

25 26 **PRELIMINARY STATEMENT**

27 7. This is a lawsuit challenging the reservation policies and practices of a
28 place of lodging. Plaintiff does not know if any physical or architectural

1 barriers exist at the hotel and, therefore, is not claiming that that the hotel has
2 violated any construction-related accessibility standard. Instead, this is about
3 the lack of information provided on the hotel's reservation website that would
4 permit plaintiff to determine if there are rooms that would work for him.

5 8. After decades of research and findings, Congress found that there was
6 a "serious and pervasive social problem" in America: the "discriminatory
7 effects" of communication barriers to persons with disability. The data was
8 clear and embarrassing. Persons with disabilities were unable to "fully
9 participate in all aspects of society," occupying "an inferior status in our
10 society," often for no other reason than businesses, including hotels and
11 motels, failed to provide information to disabled travelers. Thus, Congress
12 decided "to invoke the sweep of congressional authority" and issue a "national
13 mandate for the elimination of discrimination against individuals with
14 disabilities," and to finally ensure that persons with disabilities have "equality
15 of opportunity, full participation, independent living" and self-sufficiency.

16 9. As part of that effort, Congress passed detailed and comprehensive
17 regulations about the design of hotels and motels. But, as importantly,
18 Congress recognized that the physical accessibility of a hotel or motel means
19 little if the 61 million adults living in America with disabilities are unable to
20 determine which hotels/motels are accessible and to reserve them. Thus,
21 there is a legal mandate to provide a certain level of information to disabled
22 travelers.

23 10. But despite the rules and regulations regarding reservation procedures,
24 a 2019 industry article noted that: "the hospitality sector has largely
25 overlooked the importance of promoting accessible features to travelers."

26 11. These issues are of paramount important. Persons with severe
27 disabilities have modified their own residences to accommodate their unique
28 needs and to ameliorate their physical limitations. But persons with disabilities

1 are never more vulnerable than when leaving their own residences and having
2 to travel and stay at unknown places of lodging. They must be able to ascertain
3 whether those places work for them.

4
5 **FACTUAL ALLEGATIONS:**

6 12. Plaintiff planned on making a trip in February of 2021 to the San
7 Francisco, California, area.

8 13. He chose the King George Hotel located at 334 Mason Street, San
9 Francisco, California because this hotel was at a desirable price and location.

10 14. Plaintiff needs an accessible guestroom. He needs clearance around
11 beds, he needs accessible restroom facilities including accessible sinks,
12 accessible tubs or showers and accessible toilets. He needs sufficient
13 maneuvering clearance in and around the guestroom. He needs accessories to
14 be located within an accessible reach range. In short, he benefits from and
15 needs compliant accessible guestroom features.

16 15. While sitting bodily in California, Plaintiff went to the King George
17 Hotel reservation website at <https://www.kinggeorge.com/> seeking to book an
18 accessible room at the location on October 6, 2020.

19 16. Plaintiff found that there was little information about the accessibility
20 of the rooms. For example, under the “ADA compliance accessibility features”
21 tab, it mentions features such as: “Accessible Valet Parking”, “Accessible
22 Corridors”, “Public Restrooms Are Accessible”, “Meeting Rooms Are
23 Accessible”, and “Accessible Route To Hotel Entrance and Registration
24 Desk.” These are vague and conclusory statements. Likewise, under the
25 “Deluxe Accessible Queen” room description, it mentions features such as:
26 “Deluxe Accessible Queen-Roll in shower with built in shower chair-Bathroom
27 handrails-Lowered sight hole on door.” These vague and conclusory
28 statements offer little detail. For example, there is no specific information on

1 whether the desk/table in the room is accessible, or if the sink and toilet are
2 accessible, or if the room has accessible clear floor space.

3 17. The defendant's reservation system failed to identify and describe the
4 accessible features in the guestroom chosen by the plaintiff in enough detail to
5 reasonably permit him to assess independently whether the particular
6 guestroom met his accessibility needs.

7 18. This lack of information created difficulty for the plaintiff and the idea
8 of trying to book this room -- essentially ignorant about its accessibility --
9 caused discomfort for the Plaintiff.

10 19. Plaintiff would like to patronize this hotel but is deterred from doing so
11 because of the lack of detailed information through the hotel's reservation
12 system. Plaintiff not only travels frequently but is always on the lookout for
13 businesses that violate the law and discriminate against him and other persons
14 with disabilities, intending to have them comply with the law and pay statutory
15 penalties.

16
17 **I. FIRST CAUSE OF ACTION: VIOLATION OF THE AMERICANS**
18 **WITH DISABILITIES ACT OF 1990** (On behalf of Plaintiff and against all
19 Defendants.) (42 U.S.C. section 12101, et seq.)

20 20. Plaintiff re-pleads and incorporates by reference, as if fully set forth
21 again herein, the allegations contained in all prior paragraphs of this
22 complaint.

23 21. Under the ADA, it is an act of discrimination to fail to make reasonable
24 modifications in policies, practices, or procedures when such modifications
25 are necessary to afford goods, services, facilities, privileges advantages or
26 accommodations to person with disabilities unless the entity can demonstrate
27 that taking such steps would fundamentally alter the nature of the those goods,
28 services, facilities, privileges advantages or accommodations. See 42 U.S.C. §

1 12182(B)(2)(A)(ii).

2 22. Specifically, with respect to reservations by places of lodging, a
3 defendant must ensure that its reservation system, including reservations
4 made by “any means,” including by third parties, shall:

- 5 a. Ensure that individuals with disabilities can make
6 reservations for accessible guest rooms during the same
7 hours and in the same manner as individuals who do not
8 need accessible rooms;
- 9 b. Identify and describe accessible features in the hotels and
10 guest rooms offered through its reservations service in
11 enough detail to reasonably permit individuals with
12 disabilities to assess independently whether a given hotel
13 or guest room meets his or her accessibility needs; and
- 14 c. Reserve, upon request, accessible guest rooms or specific
15 types of guest rooms and ensure that the guest rooms
16 requested are blocked and removed from all reservations
17 systems.

18 *See* 28 C.F.R. § 36.302(e).

19 23. Here, the defendant failed to modify its reservation policies and
20 procedures to ensure that it identified and described accessible features in the
21 hotels and guest rooms in enough detail to reasonably permit individuals with
22 disabilities to assess independently whether a given hotel or guest room meets
23 his or her accessibility needs and failed to ensure that individuals with
24 disabilities can make reservations for accessible guest rooms during the same
25 hours and in the same manner as individuals who do not need accessible
26 rooms.

27
28 **II. SECOND CAUSE OF ACTION: VIOLATION OF THE UNRUH CIVIL**

1 **RIGHTS ACT** (On behalf of Plaintiff and against all Defendants.) (Cal. Civ.
2 Code § 51-53.)

3 24. Plaintiff repleads and incorporates by reference, as if fully set forth
4 again herein, the allegations contained in all prior paragraphs of this
5 complaint. The Unruh Civil Rights Act (“Unruh Act”) guarantees, inter alia,
6 that persons with disabilities are entitled to full and equal accommodations,
7 advantages, facilities, privileges, or services in all business establishment of
8 every kind whatsoever within the jurisdiction of the State of California. Cal.
9 Civ. Code §51(b).

10 25. The Unruh Act provides that a violation of the ADA is a violation of the
11 Unruh Act. Cal. Civ. Code, § 51(f).

12 26. Defendants’ acts and omissions, as herein alleged, have violated the
13 Unruh Act by, inter alia, failing to comply with the ADA with respect to its
14 reservation policies and practices.

15 27. Because the violation of the Unruh Civil Rights Act resulted in difficulty
16 and discomfort for the plaintiff, the defendants are also each responsible for
17 statutory damages, i.e., a civil penalty. *See* Civ. Code § 52(a).

18
19 **PRAYER:**

20 Wherefore, Plaintiff prays that this Court award damages and provide
21 relief as follows:

22 1. For injunctive relief, compelling Defendants to comply with the
23 Americans with Disabilities Act and the Unruh Civil Rights Act. Note: the
24 plaintiff is not invoking section 55 of the California Civil Code and is not
25 seeking injunctive relief under the Disabled Persons Act at all.

26 2. Damages under the Unruh Civil Rights Act, which provides for actual
27 damages and a statutory minimum of \$4,000 for each offense.
28

1 3. Reasonable attorney fees, litigation expenses and costs of suit, pursuant
2 to 42 U.S.C. § 12205; and Cal. Civ. Code § 52(a).

3
4 Dated: December 8, 2020

CENTER FOR DISABILITY ACCESS

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8 By: _____

9 Russell Handy, Esq.

10 Attorneys for Plaintiff
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